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(Name)

David  
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July 27, 2004  
(Date)

Docket AVERP2808USA

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS**

In re application of Hannington et al.	:	Group Art Unit: 1772
Serial No:	09/742,653	Examiner: B. Egan
Filed:	December 21, 2000	
For:	ADHESIVE ARTICLES WITH IMPROVED AIR EGRESS AND METHODS OF MAKING THE SAME	

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P.O. Box 1450  
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**APPLICANTS' REPLY BRIEF**

Dear Sir:

This Reply Brief, in triplicate, is submitted in response to the Examiner's Answer mailed May 27, 2004 in the above-identified application.

Applicant's Reply Brief is directed to the Examiner's comments contained in Section 2 (Related Appeals and Interferences) and Section 11 (Response to Arguments). With regard to Section 2, the Examiner's comments are incorrect as the Appeal Brief contains a statement on page 2 of the Brief that there are no related appeals and interferences that will directly affect or be directly affected by or have a bearing on the decision of this appeal.

This Reply Brief is further directed to the Examiner's comments in Section 11, and in particular, to the Examiner's position that the Rusincovitch reference

(US 5,676,787) suggests a pattern of non-adhesive material forms embedded into the top release surface of the release liner wherein the top surface of the non-adhesive forms is even with or below the plane of the top release surface of the release liner.

Rusincovitch teaches that the non-adhesive forms are printed on the surface of the release liner. (Col. 5, line 66 to col. 6 line 3; and col. 6, lines 57-59) Figure 4B of Rusincovitch shows the non-adhesive forms on the surface, and not embedded into the release liner. Rusincovitch further states at column 6, lines 60-61 that the printed ink spacers protrude from the flat surface of the release liner. It is the Examiner's position, however, that Rusincovitch provides an "implied motivation to rearrange the parts of the invention – namely, insofar as the non-adhesive forms protrude at the desired distance, the teachings suggest to one versed in the art that the non-adhesive forms may be positioned such that they are partially or fully embedded into the release liner."

The Examiner's conclusion that the position of the non-adhesive material forms relative to the surface of the release liner is a mere rearrangement that would not affect the operation of the adhesive article is without support. The position of the non-adhesive material forms relative to the surface of the release liner affects the position of the non-adhesive material forms relative to the adhesive surface as the adhesive layer is applied to the top surface of the release liner. In operation, the release liner is removed to expose the adhesive with the non-adhesive material forms attached thereto. As the Examiner has acknowledged, the physical characteristics of the adhesive article, e.g., the characteristics of air-egress, repositionability and slidability, depend on the position of the non-adhesive material forms relative to the adhesive surface.

The Examiner's reliance on In re Japikse 86 USPQ 70 (CCPA 1950) as support for his position, is without reason. In re Japikse, is not applicable or relevant to the particular situation. In In re Japikse, claims to a hydraulic power press that read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device. In the present invention,

"shifting the position" of the non-adhesive material forms would significantly modify the operation of the adhesive article.

Applicants request reversal of the Examiner's final rejection.

Respectfully submitted,

**RENNER, OTTO, BOISSELLE & SKLAR, LLP**

By Heidi Boehlefeld  
Heidi A. Boehlefeld  
Reg. No. 34,296

1621 Euclid Avenue  
Nineteenth Floor  
Cleveland, Ohio 44115  
(216) 621-1113